

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FILED
APPROPRIATE DIVISION

2004 NOV 16 PM 4:09

Alberta Dukes

Plaintiff

V.

Anthony Principi
Secretary B. V. A

Defendant

APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF
FEES AND AFFIDAVIT

CASE NUMBER:

A04CA743 SS

I, Alberta DUKES declare that I am the (check appropriate box)

☒ petitioner/plaintiff/movant ☐ other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☐ Yes ☒ No (If "No," go to Part 2)

If "Yes," state the place of your incarceration _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? ☒ Yes ☐ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

when working 959.00 but have been on sick leave for 5 months with no income

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- | | | |
|---|---|--|
| a. Business, profession or other self-employment | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| b. Rent payments, interest or dividends | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation payments | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| e. Gifts or inheritances | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Any other sources | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

AO 240 Reverse (Rev. 9/96)

4. Do you have **any** cash or checking or savings accounts? ☒ Yes ☐ No

If "Yes," state the total amount. Savings account but 0 dollars

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? ☐ Yes ☒ No

If "Yes," describe the property and state its value.

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

Self

I declare under penalty of perjury that the above information is true and correct.

11/16/04
Date

Albertha Duke
Signature of Applicant

NOTICE TO PRISONER: A Prisoner seeking to proceed IFP shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.



DEPARTMENT OF VETERANS AFFAIRS
Central Texas Veterans Health Care System

Austin Satellite Outpatient Clinic
2901 Montopolis Drive
Austin, TX 78741

Thomas T. Connally Medical Center
1016 Ward Street
Marlin, TX 76661

Olin E. Teague Veterans Center
1901 Veterans Memorial Drive
Temple, TX 76504

Waco VA Medical Center
4800 Memorial Drive
Waco, TX 76711


July 12, 2004

In Reply Refer To: 674/05

To Whom It May Concern:

1. Ms. Alberta Dukes, is employed as a Clerk with the Department of Veterans Affairs, Austin Outpatient Clinic. She has been in a Leave without Pay (LWOP) status since June 28, 2004.

2. If you need additional information regarding Ms. Dukes' status, please feel free to contact me at (254) 778-4811, extension 1388.


Mary Lechler
Human Resources Service

identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.⁸ Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. Such an opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

In the present case the claimant has submitted medical evidence from a psychiatrist relating the situational depressive disorder and anxiety to the sexual harassment at work. Dr. Zeisset has related the claimant's condition to a compensable factor of employment. Therefore I find that the doctor's opinion is sufficient to establish that as a result of the claimant's employment, she developed an emotional condition.

The Decision dated August 13, 2003 is REVERSED and the case accepted for situational depressive disorder and anxiety.

DATED: APRIL 22, 2004
WASHINGTON, DC



PAULA J. STRANGE
Hearing Representative
for
Director, Office of Workers'
Compensation Programs

⁸See Donna Faye Cardwell, 41 ECAB Docket No. 89-330, issued May 15, 1991.

⁹Id.

THE AUSTIN DIAGNOSTIC CLINIC AN ASSOCIATION



P.O. Box 85111
Austin, Texas 78708-5111

09/01/2004

MR#: 941394

RE: ALBERTA DUKES
1601 MONTOPOLIS DR
517
AUSTIN, TX 78741

To Whom it may concern:

Ms. Dukes is under my medical care. Due to her medical condition I do not feel she can return to work at this time.

I will reevaluate her in two weeks and hope she may be able to return to work after that evaluation.

Sincerely,

H Paul Putman III MD

THE AUSTIN DIAGNOSTIC CLINIC AN ASSOCIATION



P.O. Box 85111
Austin, Texas 78708-5111

09/15/2004

MR#: 941394

RE: ALBERTA DUKES
1601 MONTOPOLIS DR
517
AUSTIN, TX 78741

Dear Austin VA Clinic:

Ms. Dukes is under my medical care. At this time, she is unable to return to work due to her medical condition. I will be reevaluating her in two weeks.

Sincerely,

H Paul Putman III MD

THE AUSTIN DIAGNOSTIC CLINIC AN ASSOCIATION



P.O. Box 85111
Austin, Texas 78708-5111

08/17/2004

MR#: 941394

RE: ALBERTA DUKES
1601 MONTOPOLIS DR
517
AUSTIN, TX 78741

To whom it may concern:

I have evaluated Ms. Dukes today and accepted her under my care. In my opinion at this time she cannot perform her job duties for at least the next two weeks, at which time I will reevaluate her.

Sincerely,

H Paul Putman III MD

File Copy

" Internal Medicine " Hematology/Oncology " Rheumatology " Cardiology " Family Practice " Neurology " Dermatology " Nephrology
" Radiology " Endocrinology " Podiatry " Audiology " Gastroenterology " Pulmonary Disease " Allergy " Pediatrics " Psychiatry
" Ophthalmology " Obstetrics/Gynecology " Orthopaedics " Surgery " Cardiovascular Surgery " Urology " Otolaryngology

LINDA S. VALSECA, MA.LPC.LCDC.

3205 South First Street
Austin, Texas 78704
Fax/Phone 512 693-7244

July 22, 2004

To Whom It May Concern:

This document is in reference to the session that took place on June 11, 2004, between myself, Alberta Dukes and her husband.

Mrs. Dukes was referred through EAP services (Magellan). Our session not only covered psychosocial information, but also allowed Mrs. Dukes to talk about her reasons for requesting services.

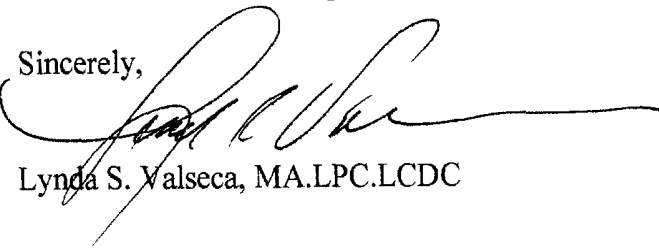
Based upon Mrs. Dukes reports, she has been struggling at her job with Veterans Independent Enterprises of WA/View, with what Mrs. Dukes describes as high levels of harassment from her employers. She stated that she had been placed on medication by her Md., to help relieve her stress levels. She also mentioned that her physical health had been affected by the situation at work.

I told Mrs. Dukes, that I could offer her bio-feedback/relaxation, and other cognitive behavioral techniques, but until the stressors were relieved, it would be difficult to treat her, with great success.

At the time of her appointment, Mrs. Dukes was extremely agitated and concerned.

If I can be of assistance, please do not hesitate to contact me.

Sincerely,



Lynda S. Valseca, MA.LPC.LCDC

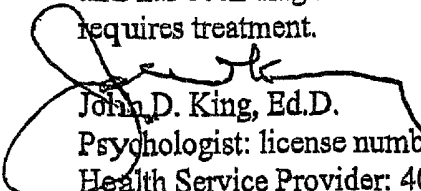
Austin Behavioral Clinic
720 W. 34th Street
Austin, Texas 78705
Phone: 476-3333 Fax: 459-4088

John D. King, Ed.D.
Psychologist

4/13/04

To Whom It May Concern:

It is my opinion that Alberta Dukes should continue to have medical treatment available to her. She is in a stage of her life in which she is suffering from anxiety and depression and has been diagnosed with a Generalized Anxiety Disorder (DSMIV 300.02) which requires treatment.



John D. King, Ed.D.
Psychologist: license number 2-05606-2
Health Service Provider: 40131
LSSP: 30412

FAMILY PRACTICE CLINIC

HAROLD D. LEWIS, D.O., P.A.
JANNA S. NICHOLS, F.N.P.-C.
1901 WEST WILLIAM CANNON #123
AUSTIN, TEXAS 78745
(512) 444-2661
(512) 444-2720 - FAX

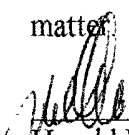


July 8, 2004

RE: ALBETA DUKES
DOB: 05-20-50
SSN # 465-86-7025

To Whom It May Concern,

I am the primary care doctor who is treating Ms. Alberta Dukes. She has been diagnosed with a psychogenic disorder and generalized anxiety (300.02), depression (296.2), dermatitis (692.1) and allergic rhinitis (477.0). I have recommended a referral to a mental health specialist in her plan to evaluate and treat her condition. At this time I feel it is best that she be taken off work until the psychologists can evaluate her. Thank you for your attention to this matter.


Harold D. Lewis, D.O., P.A.

HDL/ddm
071304